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Before the
Federal Communications Commission
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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| In the Matter of |) | |
| |) | |
| Amendment of the Commission's |) | GEN Docket No. 90-314 |
| Rules to Establish New Personal |) | RM-7140, RM-7175, |
| Communications Services |) | RM-7618 |

**UNITED STATES TELEPHONE ASSOCIATION
OPPOSITION TO
PETITION FOR RECONSIDERATION**

The United States Telephone Association (USTA) respectfully submits its Opposition to the Petition for Reconsideration filed by Comcast Corporation (Comcast) on December 8, 1993 in the above-referenced docket and its support for the Petitions filed by various parties seeking reconsideration of the Commission's cellular eligibility restriction.¹ USTA is the principal trade association of the exchange carrier industry. Its members provide over 98 percent of the exchange carrier-provided access lines in the U.S. USTA and its members have participated in this proceeding since its inception, as exchange carriers have a significant role to play in developing personal communications services (PCS), in integrating PCS with their public networks and in providing PCS to their customers.

¹See, for example, Petitions of Chickasaw Telephone Co., et. al., NYNEX, TDS, Concord Telephone Company, NTCA, OPASTCO, and U.S. Intelco.

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I. SEPARATE SUBSIDIARY REQUIREMENT.

In the Second Report and Order, the Commission determined that no new separate subsidiary requirements are necessary for exchange carrier provision of PCS.² Comcast requests that exchange carriers be required to conduct PCS operations only through a separate subsidiary.³ USTA recommends that Comcast's request be denied.

The Commission has considered the cost and benefits of structural separation in the context of BOC provision of enhanced services and has determined that provision of enhanced services on an integrated basis with basic services can result in operational efficiencies, economies of scope and cost savings by avoidance of separation and/or duplication of the assets and personnel that would be required by a regulatory requirement for structural separation.⁴ The Commission found the rationale against imposing structural separation on certain non-BOC to be even more compelling.⁵ Such a rationale is applicable to exchange carrier provision of PCS. In fact, the Commission noted

²Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, RM-7140, RM-7175, RM-7618, Second Report and Order, released October 22, 1993 at ¶ 126. [Order].

³Comcast at 20.

⁴Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, CC Docket No. 90-623, 6 FCC Rcd 7571 (1991). [Computer III Remand Order].

⁵See, Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Docket No. 20828, Final Decision, 77 FCC 2d 384 (1980).

in the Order that the separate subsidiary requirements imposed upon the BOCs preclude approximately 80 percent of the exchange carrier industry from realizing any economies of scope between their wireline and wireless telephone services.⁶ Exchange carrier provision of PCS on an integrated basis will facilitate the efficient utilization of the resources of the public switched telephone network to support PCS. By permitting exchange carriers to add low-power radio access to the existing exchange carrier networks on an integrated basis, the Commission can realize the following benefits:

First, exchange carriers have the financial resources and much of the required infrastructure, including the personnel, physical plant, administrative procedures, billing systems, wireline links, intelligent network features and switching capability, already in place to support PCS. As with enhanced services, it would not be cost effective to force exchange carriers to duplicate any of these resources to provide PCS. Exchange carriers should be permitted to take advantage of inherent efficiencies and economies of scope to provide PCS.

Second, integrated provision of PCS will permit exchange carriers to increase use of the public switched network, thereby increasing its efficiency and utility. A separate subsidiary requirement could increase costs for all potential PCS providers. Integrating PCS with the exchange carrier networks would permit PCS customers to take advantage of many existing and emerging

⁶Order at ¶ 114.

intelligent network services, thus hastening the deployment and future enhancement of PCS.

Third, exchange carrier provision of PCS on an integrated basis will benefit exchange carrier customers. The Commission has continually recognized that wireless technology can be an alternative transmission medium used in the provision of local exchange service. Such technologies can complement local exchange services by generating greater efficiencies and lowering costs. Deployment of radio-based technologies could enable exchange carriers to operate more efficiently, thereby providing savings for current wireline customers. Integrated PCS operations will be essential to the deployment of PCS in small, residential and less-populated areas. Also, the duplication of resources which would be required by separate PCS operations would force both basic network and PCS prices paid by exchange carrier customers to be higher than they otherwise would be.

Fourth, the Commission has already concluded that its comprehensive regulatory framework of nonstructural safeguards provides an effective alternative to structural separation for protection against anticompetitive conduct.⁷

Finally, the integration of PCS and exchange carrier operations will not impede competition as speculated by Comcast. To the contrary, the availability of multiple PCS licenses will facilitate the competitive offering of PCS. Exchange carriers are already restricted in their provision of PCS and are the only

⁷Computer III Remand Order at ¶ 9.

potential competitors subject to the strict nonstructural safeguards mentioned above. Additional restrictions are not warranted.

II. CELLULAR ELIGIBILITY AND ATTRIBUTION REQUIREMENTS.

USTA supports the Petitions filed requesting that the Commission reconsider the cellular eligibility and attribution rules as adopted in the Second Report and Order. As pointed out in the Petitions, these rules will have a particularly detrimental impact on many small and mid-sized exchange carriers by effectively prohibiting them from providing PCS to their customers. As a result, many rural customers will effectively be denied competitive delivery, rapid deployment and the many efficiencies which exchange carrier provision of PCS could provide. The Commission should not restrict opportunities for deployment of PCS by small and mid-sized exchange carriers. The Commission should instead be seeking to promote the earliest possible deployment of PCS in rural areas.

The vast majority of small and mid-sized exchange carriers do not control or operate cellular systems encompassing their landline service areas. In the instances where an exchange carrier has only a minority interest in a cellular operation, cellular spectrum will not be available because its limited interest gives it little effective voice in day-to-day operations. Therefore, most exchange carriers do not have preferential access to cellular spectrum to offer any radio-based

service to their customers.

It is also clear that capacity, economic constraints and the embedded network architecture presently used in delivering cellular service will not permit, within the spectrum allocated for cellular, the wide range of services and price points necessary to meet the needs of PCS customers. Cellular and PCS have the potential to be different, or similar, in response to market demands. The Commission should reconsider its cellular eligibility and attribution rules to better foster the development of innovative and unique network architectures that will provide new services priced differently from cellular and designed to meet different customer needs.

USTA urges the Commission to act on the Petitions for Reconsideration discussed herein as recommended in its Opposition.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

By: 

Martin T. McCue
Vice President and General
Counsel

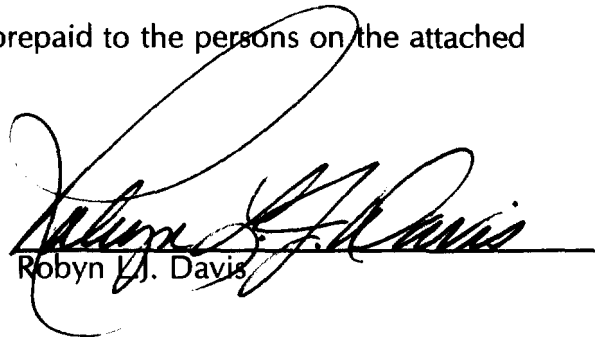
Linda Kent
Associate General Counsel

1401 H Street, NW, Suite 600
Washington, D.C. 20005-2136
(202) 326-7300

December 30, 1993

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on December 30, 1993 copies of the Opposition of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



Robyn L.J. Davis

Daryl Avery
Peter Wolfe
Public Service Commission of the
District of Columbia
450 5th Street, NW
Washington, DC 20001

Durward Dupre
Richard Hartgrove
Michael Zpevak
Southwestern Bell
1010 Pine Street, Room 2114
St. Louis, MO 63101

Andrew Lipman
Russell Blau
Swidler & Berlin, Chld.
3000 K Street, NW
Washington, DC 20007

International Transcription Service
2100 M Street, NW
Suite 140
Washington, DC 20036

Policy and Program Planning Division
Common Carrier Bureau
FCC
1919 M Street, NW
Room 544
Washington, DC 20554

James Blaszak
Patrick Whittle
Gardner, Carton & Douglas
Ad Hoc Telecommunications Users
Committee
1301 K Street, NW
Suite 900 - North Tower
Washington, DC 20005

Samuel Loudenslager
Arkansas Public Service Commission
1000 Center Street
Little Rock, AR 72203

Floyd Keene
Brian Gilomen
Ameritech Services, Inc.
2000 West Ameritech Center Drive
Hoffman Estates, IL 60195

Mary Newmeyer
Alabama Public Service Commission
One Court Square, Suite 321
Montgomery, AL 36104

Richard Rubin
Fleischman and Walsh, PC
Associated Communications Corp.
1400 16th Street, NW
Suite 600
Washington, DC 20036

Deborah Dupont
Association for Local Telephone
Communications Services
1150 Connecticut Ave, NW
Suite 1050
Washington, DC 20036

James Young
Lawrence Katz
Bell Atlantic Telephone Companies
1710 H Street, NW
8th Floor
Washington, DC 20006

William Barfield
Richard Sbaratta
Bell South Telephone Companies
1155 Peachtree Street, NE
Suite 1800
Atlanta, GA 30367

Carol Sulkes
Central Telephone Company
8745 Higgins Road
Chicago, IL 60631

Genevieve Morelli
Competitive Telecommunications
Association
1140 Connecticut Avenue, NW
Suite 220
Washington, DC 20036-4001

Tedson Meyers
Michael Faber
Reid and Priest
Committee for Corporate
Telecommunications Users
701 Pennsylvania Avenue, NW
Washington, DC 20036

Lawrence Keller
Cathay Hutton & Associates
3300 Holcomb Bridge Road
Suite 286
Norcross, GA 30092

Raymond Bender, Jr.
John Logan
Cybertel Corporation
1255 23rd Street, NW
Suite 500
Washington, DC 20037

Richard McKenna
GTE Telephone Operations
Legal Dept.
5205 N O'Connor
WILL15
Irving, TX 75015

John Pettit
Neal Goldberg
Hopkins and Sutter
888 16th Street, NW
Washington, DC 20006

Ed Laken
First Commercial Financial Group,
Inc.
30 S. Wacker, Suite 2020
Chicago, IL 60606

Thomas Casey
Jay Birnbaum
Skadden, Arpts, Slate, Meagher &
Flom
FMR Corp.
1440 New York Ave., NW
Washington, DC 20005

R. Craig Roos
Local Area Telecommunications, Inc.
17 Battery Place
Suite 1200
New York, NY 10004

Larry Blosser
MCI Telecommunications Corp.
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Douglas Neel
Messagephone, Inc.
5910 N. Central Expressway
Suite 1575
Dallas, TX 75206

Martin Freidel
Midamerican Long Distance Company
7100 West Center Road
Suite 300
Omaha NE 68106-2723

William Wyrrough, Jr.
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399

Paul Rodgers
NARUC
1102 ICC Building
Washington, DC 20044

Stanley Moore
Pacific Bell and Nevada Bell
1275 Pennsylvania Avenue, NW
Washington, DC 20004

Janice Kerr
People of the State of CA and the
Public Utilities Commission of the State
of CA
505 Van Ness Avenue
San Francisco, CA 94102

Lisa Zaina
OPASTCO
21 Dupont Circle
Suite 700
Washington, DC 20036

David Cosson
NTCA
2626 Pennsylvania Ave., NW
Washington, DC 20037

Edward Niehoff
Patrick Lee
NYNEX
120 Bloomingdale Road
White Plains, NY 10605

Michael Yourshaw
William Baker
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006

Jack Pace
Telesphere-WiTel
655 W. Grand Avenue
Suite 300
Elmhurst, IL 60126

Margot Smiley Humphrey
Koteen and Naftalin
1150 Connecticut Avenue, NW
Washington, DC 20036

Josephine Trubek
Rochester Telephone Company
180 South Clinton Avenue
Rochester, NY 14646

Joseph Murphy
Track Data Corp.
327 S. LaSalle, Suite 1535
Chicago, IL 60604

Ellen Deutsch
Robert Lopardo
Thelen, Marrin, Johnson & Bridges
805 15th Street, NW
Suite 900
Washington, DC 20005

Dana Rasmussen
Richard McKenna
US West
1020 19th Street, NW
Suite 700
Washington, DC 20036

Jay Keithley
United Telecommunications, Inc.
1850 M Street, NW
Suite 1110
Washington, DC 20036

Eric Fishman
Williams Telecommunications Group,
Inc.
1025 Connecticut Avenue, NW
Washington, DC 20036

Robert Glazier
Indiana Utility Regulatory Commission
901 State Office Building
Indianapolis, IN 46204

Ann Kenkener
Public Utilities Commission of OH
180 East Broad Street
Columbus, OH 43266

Charles Thompson
Public Service Commission of
Wisconsin
477 Hill Farms, State Office Bldg.
Madison, WI

Marilyn Moore
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48909

William Baskett
Frost & Jacobs
2500 Central Trust Center
201 East Fifth Street
Cincinnati, OH 45202

BB Knowles
GA Public Service Commission
244 Washington Street
Atlanta, GA 30334

Madelyn M. DeMatteo
SNET
227 Church Street
New Haven, CT 06506

Roy Morris
ALLNET
1990 M Street, NW
Suite 500
Washington, DC 20036

John Shapleigh
ALTS
1200 19th Street, NW
Suite 607
Washington, DC 20036

Hollis Duesing
The Association of American Railroads
50 F Street, NW
Washington, DC 20001

Francine Berry
David Condit
AT&T
295 North Maple Avenue
Room 3244JI
Basking Ridge, NJ 07920

Lewis Paper
Robert Aldrich
Keck, Mahin & Cate
1201 New York Avenue, NW
Washington, DC 20005

Debra Lagapa
Morrison & Foerster
2000 Pennsylvania Ave., NW
Suite 5500
Washington, DC 20006

Randolph May
Richard Whitt
Suitherland, Asbill & Brennan
1275 Pennsylvania Ave., NW
Washington, DC 20004

John Lynn
EDS Corporation
1331 Pennsylvania Ave., NW
Suite 1331, North Office Tower
Washington, DC 20004

Joe Edge
Hopkins & Sutter
888 16th Street, NW
Washington, DC 20006

Robert Mackichan, Jr.
General Services Administration
18th and F Streets, NW
Room 40002
Washington, DC 20405

Herbert Marks
David Alan Nall
Squire, Sanders & Dempsey
IDCMA
1201 Pennsylvania Ave., NW
Washington, DC 20044

Andrew Lipman
Richard M. Rindler
Swidler, & Berlin
3000 K Street, NW
Suite 300
Washington, DC 20007

Information Industry Assoc.
555 New Jersey Ave., NW
Suite 800
Washington, DC 20001

Brian Moir
Fisher, Wayland, Cooper & Leader
1255 23rd Street, NW
Suite 800
Washington, DC 20037

*John Kelliher
Illinois Commerce Commission
180 North LaSalle Street
Suite 810
Chicago, IL 60601*

*Robert Mazer
Nixon, Hargrave, Devans & Doyle
One Thomas Circle, NW
Suite 800
Washington, DC 20005*

*Metrocomm
50 West Broad Street
Columbus, OH 43215*

*Richard Askoff
NECA, Inc.
100 South Jefferson Road
Whippany, NJ 07981*

*William Cowan
NY State Department of Public Service
Three Empire State Plaza
Albany, NY 12223*

*Patrick Lee
Joseph DiBella
NYNEX
120 Bloomingdale Road
White Plains, NY 10605*

*Joseph Harkins, Jr.
Penn Access Corporation
Centre City Tower
650 Smithfield Street
Pittsburgh, PA 15222*

*Irwin Popowsky
PA Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, PA 17120*

*Stuart Dolgin
PCNS-ONE of New York
17 Battery Place
Suite 1200
New York, NY 10004*

*Paul Berman
Covington & Burling
1201 Pennsylvania Ave., NW
Washington, DC 20044*

*Eric Fishman
Sullivan & Worcester
Long Distance North
1025 Connecticut Ave., NW
Washington, DC 20036*

*Mark Hayward
Chief Counsel for Advocacy of the US
Small Business Admin.
409 3rd Street, SW
Washington, DC 20416*

*Leon Kestenbaum
H. Richard Juhnke
US Sprint Communications
1850 M Street, NW
11th Floor
Washington, DC 20036*

*Edward Addison
VA State Corporation Commission Staff
P.O. Box 1197
Richmond, VA 23209*

*Michael Glaser
Hopper & Kanouff
1610 Wynkoop
Suite 200
Denver, CO 80202*

*Richard Wiley
Michael Yourshaw
William Baker
Wiley, Rein & Fielding
1776 K Street, NW
Washington, DC 20006*

*John Sturm
Newspaper Association of America
11600 Sunrise Valley Drive
Reston, VA 22091*

*Hollis Duensing
The Association of American Railroads
50 F Street, N.W.
Washington, D.C. 20001*

*Helen A. Shockey
BellSouth Telecommunications, Inc.
4300 Southern Bell Center
675 West Peachtree Street, NE
Atlanta, GA 30375*